IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 945 of 2005

Between:

M/s. Jayam Automoiles, Dr. NO. 76-14-226/4, Ground Floor, Grambay Road, Bhavanipuram
Vijayawada rep by Proprietor, K.C. Malayalam, S/o Kungumam, Krishna District

..... PETITIONER

AND

1. The Managing Director, APSRTC,

Musheerabad Circle, Hyderabad
2. The Controller of Stores (D&T),

APSRTC, vizianagaram Vizianagaram District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, order or direction particularly in the nature of *Writ of Mandamus* declaring the communications issued by the second respondent namely the controller of Stores, APSRTC, Vizianagaram dated 27-8-2004, 7.9.2004, 11-9-2004, 1-9-2004 and 28-8-2004 in Ref. Nos. S.O.(D & T) /Dis/29/VEH/Feb-04/VZM and S.O.(D&T)/DIS/29/VEH/May-04/F/NZM forfeiting the 10% earnest money deposit paid by the petitioner in respect of Vehicle Nos. AP9Z2994, 7038, 5770, 4452, 2974, 1934, 6241, 6239, 4382, 2835, 6686, 4180, 7098, 2582, 8376, 5622, 2633 and 2622 sold to the petitioner in the tender-cum-auction held on 11-2-2004 and 6-5-2004 even after payment of 1% of the value of the vehicles in cash towards sales tax and furnishing of bank guarantee for 11 % of the value of the vehicles fro non-lifting of the vehicles within the time on account of the sad and sudden demise of one of the partners of the petitioner firm on 22-8-2004 as illegal, arbitrary,

improper and unjust to the principles of natural justice in as much as the disputed forfeiture of the earnest money deposits is without any notice and consequently direct the respondents to consider the case of the petitioner in terms of representation dated 11-10-2004 submitted to the first respondent for permission to lift the above mentioned vehicles on payment of the balance of the cost of the vehicles with a minimum penalty in lump sum amount.

Counsel for the Petitioner: MR.M.V.J.K.KUMAR

Counsel for the Respondents: MR.R.M.REDDY

The Court made the following:

ORDER:

For declaring the communications issued by the second respondent dated 27.08.2004, 07.09.2004, 11.09.2004, 01.09.2004 and 28.08.2004 in Ref. Nos.S.O. (D&T)/DIS/29/VEH/Feb-04/F/VZM and S.O. (D&T)/DIS/29/VEH/May-04/F/VZM forfeiting the 10 % earnest money deposit paid by the petitioner in respect of vehicle Nos.AP9Z2994, 7038, 5770, 4452, 2974, 1934, 6241, 6239, 4382, 2835, 6686, 4180, 7098, 2582, 8276, 5622, 2633 and 2622 sold to the petitioner in the tender-cum-auctions held on 11.02.2004 and 06.05.2004 even after payment of 1% of the value of the vehicles in cash towards sales tax and furnishing of bank guarantee for 11 % of the value of the vehicles for non-lifting of the vehicles within the time on account of the sad and sudden demise of one of the partners of the petitioner firm on 22.08.2004, as illegal and arbitrary, and also for not considering the representation of the petitioner dated 11.10.2004, the present writ petition is filed.

2. Heard the learned counsel for the petitioner and the learned standing counsel for the respondents.

3. As can be seen from the material on record, apparently, the respondents have to take appropriate decision in pursuance of the tender notification calling for the tenders to sell the old vehicles. Therefore, it would be appropriate to

direct the respondents to take appropriate decision basing on the representation made by the petitioner on 11.10.2004 and pass appropriate orders in accordance with the terms and conditions of the sale notification, within a period of six weeks from the date of receipt of a copy of this order.

With the above observation, the writ petition is disposed of. No costs.

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(K.C. BHANU, J)

Date: 09.02.2005

Ksn

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Managing Director, APSRTC,

Musheerabad Circle, Hyderabad

2. The Controller of Stores (D&T),

APSRTC, Vizianagaram, Vizianagaram District

3. 2 CD copies

*Form-NIC-OGS/WP{**TRT**}*